

# HB0227



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0227

Introduced 1/20/2009, by Rep. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

35 ILCS 505/12a

from Ch. 120, par. 428a

Amends the Motor Fuel Tax Law. In a Section concerning inspections by agents of the Department of Revenue, provides that the agents must present appropriate credentials and a written notice to the owner or lessee of the place to be inspected (instead of a person who owns, operates, or controls the place to be inspected). Effective immediately.

LRB096 03222 HLH 13829 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Motor Fuel Tax Law is amended by changing  
5 Section 12a as follows:

6 (35 ILCS 505/12a) (from Ch. 120, par. 428a)

7 Sec. 12a. (a) Any duly authorized agent or employee of the  
8 Department shall have authority to enter in or upon the  
9 premises of any manufacturer, vendor, dealer, retailer,  
10 distributor, receiver, supplier or user of motor fuel or  
11 special fuels during the regular business hours in order to  
12 examine books, records, invoices, storage tanks, and any other  
13 applicable equipment pertaining to motor fuel, aviation fuels,  
14 home heating oils, kerosene, or special fuels, to determine  
15 whether or not the taxes imposed by this Act have been paid.

16 (b) Any duly authorized agent of the Department, upon  
17 presenting appropriate credentials and a written notice to the  
18 owner or, in the case of a leased facility, the lessee of  
19 ~~person who owns, operates, or controls~~ the place to be  
20 inspected, shall have the authority to enter any place and to  
21 conduct inspections in accordance with subsections (b) through  
22 (g) of this Section.

23 (c) Inspections will be performed in a reasonable manner

1 and at times that are reasonable under the circumstances,  
2 taking into consideration the normal business hours of the  
3 place to be entered.

4 (d) Inspections may be at any place at which taxable motor  
5 fuel is or may be produced or stored or at any inspection site  
6 where evidence of the following activities may be discovered:

7 (1) Where any dyed diesel fuel is sold or held for sale  
8 by any person for any use which the person knows or has  
9 reason to know is not a nontaxable use of such fuel.

10 (2) Where any dyed diesel fuel is held for use or used  
11 by any person for a use other than a nontaxable use and the  
12 person knew, or had reason to know, that the fuel was dyed  
13 according to Section 4d.

14 (3) Where any person willfully alters, or attempts to  
15 alter, the strength or composition of any dye or marking  
16 done pursuant to Section 4d of this Law.

17 The places may include, but are not limited to, the  
18 following:

19 (1) Any terminal.

20 (2) Any fuel storage facility that is not a terminal.

21 (3) Any retail fuel facility.

22 (4) Any designated inspection site.

23 (e) Duly authorized agents of the Department may physically  
24 inspect, examine, or otherwise search any tank, reservoir, or  
25 other container that can or may be used for the production,  
26 storage, or transportation of fuel, fuel dyes, or fuel markers.

1 Inspection may also be made of any equipment used for, or in  
2 connection with, production, storage, or transportation of  
3 fuel, fuel dyes, or fuel markers. This includes any equipment  
4 used for the dyeing or marking of fuel. This also includes  
5 books and records, if any, that are maintained at the place of  
6 inspection and are kept to determine tax liability under this  
7 Law.

8 (f) Duly authorized agents of the Department may detain any  
9 motor vehicle, train, barge, ship, or vessel for the purpose of  
10 inspecting its fuel tanks and storage tanks. Detainment will be  
11 either on the premises under inspection or at a designated  
12 inspection site. Detainment may continue for a reasonable  
13 period of time as is necessary to determine the amount and  
14 composition of the fuel.

15 (g) Duly authorized agents of the Department may take and  
16 remove samples of fuel in quantities as are reasonably  
17 necessary to determine the composition of the fuel.

18 (h) (1) Any person that refuses to allow an inspection  
19 shall pay a \$1,000 penalty for each refusal. This penalty  
20 is in addition to any other penalty or tax that may be  
21 imposed upon that person or any other person liable for tax  
22 under this Law. All penalties received under this  
23 subsection shall be deposited into the Tax Compliance and  
24 Administration Fund.

25 (2) In addition, any licensee who refuses to allow an  
26 inspection shall be subject to license revocation as

1           provided by Section 16 of this Law.

2           (Source: P.A. 91-173, eff. 1-1-00.)

3           Section 99. Effective date. This Act takes effect upon  
4           becoming law.